

of Nonconformance will be used for vendors which fail to meet commitments related to NRC activities.

XI. Referrals to the Department of Justice

Alleged or suspected criminal violations of the Atomic Energy Act (and of other relevant Federal laws) are referred to the Department of Justice (DOJ) for investigation. Referral to the DOJ does not preclude the NRC from taking other enforcement action under this policy. However, enforcement actions will be coordinated with the DOJ in accordance with the Memorandum of Understanding between the NRC and the DOJ, 53 FR 50317 (December 14, 1988).

XII. Public Disclosure of Enforcement Actions

Enforcement actions and licensees' responses, in accordance with 10 CFR 2.790, are publicly available for inspection. In addition, press releases are generally issued for orders and civil penalties and are issued at the same time the order or proposed imposition of the civil penalty is issued. In addition, press releases are usually issued when a proposed civil penalty is withdrawn or substantially mitigated by some amount. Press releases are not normally issued for Notices of Violation that are not accompanied by orders or proposed civil penalties.

XIII. Reopening Closed Enforcement Actions

If significant new information is received or obtained by NRC which indicates that an enforcement sanction was incorrectly applied, consideration may be given, dependent on the circumstances, to reopening a closed enforcement action to increase or decrease the severity of a sanction or to correct the record. Reopening decisions will be made on a case-by-case basis, are expected to occur rarely, and require the specific approval of the appropriate Deputy Executive Director.

Supplement I—Reactor Operations

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of reactor operations.

A. Severity Level I—Violations involving for example:

1. A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications being exceeded;
2. A system¹¹ designed to prevent or mitigate a serious safety event not being

able to perform its intended safety function¹² when actually called upon to work;

3. An accidental criticality; or
4. A licensed operator at the controls of a nuclear reactor, or a senior operator directing licensed activities, involved in procedural errors which result in, or exacerbate the consequences of, an alert or higher level emergency and who, as a result of subsequent testing, receives a confirmed positive test result for drugs or alcohol.

B. Severity Level II—Violations involving for example:

1. A system designed to prevent or mitigate serious safety events not being able to perform its intended safety function;
2. A licensed operator involved in the use, sale, or possession of illegal drugs or the consumption of alcoholic beverages, within the protected area; or
3. A licensed operator at the control of a nuclear reactor, or a senior operator directing licensed activities, involved in procedural errors and who, as a result of subsequent testing, receives a confirmed positive test result for drugs or alcohol.

C. Severity Level III—Violations involving for example:

1. A significant failure to comply with the Action Statement for a Technical Specification Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

- (a) In a pressurized water reactor, in the applicable modes, having one high-pressure safety injection pump inoperable for a period in excess of that allowed by the action statement; or
- (b) In a boiling water reactor, one primary containment isolation valve inoperable for a period in excess of that allowed by the action statement.

2. A system designed to prevent or mitigate a serious safety event:

- (a) Not being able to perform its intended function under certain conditions (e.g., safety system not operable unless offsite power is available; materials or components not environmentally qualified); or
- (b) Being degraded to the extent that a detailed evaluation would be required to determine its operability (e.g., component parameters outside approved limits such as pump flow rates, heat exchanger transfer characteristics, safety valve lift setpoints, or valve stroke times);

managerial control systems, as well as physical systems.

¹² "Intended safety function" means the total safety function, and is not directed toward a loss of redundancy. A loss of one subsystem does not defeat the intended safety function as long as the other subsystem is operable.

3. Inattentiveness to duty on the part of licensed personnel;

4. Changes in reactor parameters that cause unanticipated reductions in margins of safety;

5. A significant failure to meet the requirements of 10 CFR 50.59, including a failure such that a required license amendment was not sought;

6. A licensee failure to conduct adequate oversight of vendors resulting in the use of products or services that are of defective or indeterminate quality and that have safety significance;

7. A breakdown in the control of licensed activities involving a number of violations that are related (or, if isolated, that are recurring violations) that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities; or

8. A licensed operator's confirmed positive test for drugs or alcohol that does not result in a Severity Level I or II violation.

9. Equipment failures caused by inadequate or improper maintenance that substantially complicates recovery from a plant transient.

D. Severity Level IV—Violations involving for example:

1. A less significant failure to comply with the Action Statement for a Technical Specification Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

- (a) In a pressurized water reactor, a 5% deficiency in the required volume of the condensate storage tank; or
- (b) In a boiling water reactor, one subsystem of the two independent MSIV leakage control subsystems inoperable;

2. A failure to meet the requirements of 10 CFR 50.59 that does not result in a Severity Level I, II, or III violation;

3. A failure to meet regulatory requirements that have more than minor safety or environmental significance; or

4. A failure to make a required Licensee Event Report.

Supplement II—Part 50 Facility Construction

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of Part 50 facility construction.

A. Severity Level I—Violations involving structures or systems that are completed¹³ in such a manner that they

¹¹ The term "system" as used in these supplements, includes administrative and

¹³ The term "completed" as used in this supplement means completion of construction including review and acceptance by the construction QA organization.